

Regulatory Services



Richard W. Clark
Director

The Division of Regulatory Services has regulatory oversight of products used by consumers of Utah agricultural products and services. Our staff prides itself in the uniform and sound practices of standardization of all their work to ensure a wholesome, clean and uniform service and product function throughout all the state. In this new era of security we are dedicated to provide helpful information and another set of eyes to be constantly vigilant in the safety of our food supplies.

The division spent 2005 without a director. Richard W. Clark was hired and assumed the responsibilities of director on May 30, 2006. The division's employees deserve a lot of recognition for the jobs they did in the absence of a director. The division's goals are to:

- Improve customer satisfaction
- Improve employee retention
- Maximize the utilization of organizational resources

Food Protection Program

Ensuring safe food is an important public health priority for the UDAF. A major accomplishment of the food protection program in 2005 was to create a new web-based food safety management system (FSMS).

The FSMS database evaluates the effectiveness of Utah's food protection program. New elements in the food safety management system enhance the food program's ability to monitor progress toward achieving goals and objectives. These include:

- Monitoring essential food safety program performance measures;
- Assessing the strengths and gaps in the design, structure and delivery of program services;
- Establishing program priorities and intervention strategies focused on reducing the occurrence of food borne illness factors; and
- Providing a mechanism that justifies program resources and allocates them to the program areas that will provide the most significant public health benefits.

The food program's long term goal is to reduce the risk factors that lead to food borne illness by 25% in the next 10 years. A new inspection form was designed to monitor the five risk factors that lead to food borne illness. UDAF can determine which risk factors are present in a specific food establishment or in the industry as a whole. Over time, UDAF will be able to provide science-based data to the food industry on each risk factor.

This effort continues and enhances UDAF's long-standing partnership with industry. We want to develop procedures for

food establishments that achieve active managerial control over the risk factors. For example, with data from FSMS, industry can determine if their new education program on hand washing is having an impact on their employees.

Information concerning the food program is now available to all the food program employees online. The FSMS database provides environmental health scientists (EHS) active control of the food establishments in their assigned areas. Reports can be generated by the EHS identifying which food establishments need to be inspected. The EHS can view the history of a food establishment on-line and follow up on previous violations and issues. They can determine if they are meeting their personal goals by running reports that indicate how many inspections they have conducted in a given time-frame. The EHS can log on to the internet and enter the results of the food inspections online. All of these reports were previously generated in the office.

The new FSMS database will reduce paperwork and provide valuable information for the management of the food program.

Food Program

Utah's food supply is under constant surveillance to ensure Utah's citizens receive a safe wholesome product. Inspections are conducted at a variety of food establishments. The number of facilities in a given category and the number of inspections conducted in each category are indicated in the following table.

Inspections 2005

| ESTABLISHMENT TYPE | NUMBER | INSPECTIONS |
|----------------------|--------|-------------|
| Bakeries | 404 | 764 |
| Grain Processors | 10 | 15 |
| Stores | 1211 | 1841 |
| Meat Departments | 380 | 758 |
| Food Processors | 425 | 702 |
| Warehouses | 259 | 315 |
| Water Facilities | 24 | 35 |
| Temporary Facilities | | 100 |
| TOTAL | 2713 | 4530 |

Egg & Poultry Grading

The mission of the Egg and Poultry Grading program is:

1. Provide grading services which will assure the consumers of Utah safe, wholesome, quality eggs, egg products, and poultry.
2. Enforcing grading standards and regulations thereby assuring uniformity and compliance throughout the egg and poultry industry.

Program activities include:

Shell Egg Grading

Egg Products Inspection
Shell Egg Surveillance
Poultry Grading
School Lunch

Shell Egg Grading

This is a service provided by the USDA. The packer pays for the service. The state supplies the personnel and supervision. A grader is stationed at the plant and is responsible for verifying that sanitation and quality requirements are met. Before processing starts, the grader performs a sanitation pre-op check. Product is then graded, continuously, off the production line. The grader examines shell eggs for weight, color, soundness, texture of shell, the absence of defects, clarity of yolk outline, and clarity and firmness of albumen. The grader assures proper cleaning of eggs, proper cartoning and/or packaging of shell eggs and is responsible for the final determination of the grade in accordance with official standards and regulations.

During 2005, USDA licensed egg graders graded 976,552 Cases (30 Dozen per Case). This is a record high for shell eggs USDA graded in Utah.

Egg Products Inspection

Of the 76 billion eggs consumed in 2004, more than 30 percent were in the form of egg products (eggs removed from their shells). Liquid, frozen, and dried egg products are widely used by the foodservice industry.

During the year 262,107 (30 dozen per case) cases of shell eggs were processed into liquid or frozen egg products in Utah. This is an increase over last year's 243,866 (30 dozen case) cases.

Shell Egg Surveillance

This program deals mainly with egg packers and processors who must register their facility with the Surveillance program. It is not a service but rather a compliance issue that is concerned more with food safety than with grade/quality factors. Product that exceeds Grade B tolerances is retained. The Surveillance visit (inspection) is done by a licensed USDA Surveillance Inspector. These visits are conducted every three months.

Twenty-one of these mandatory inspections were conducted by State of Utah graders during 2005.

Poultry Grading

Utah's USDA licensed graders grade whole turkeys and/or parts considering such factors as class, fleshing, finish, freedom from defects, age, weight, and other conditions. The grader applies official standards and regulations to determine the product's grade based upon grading results. Then those graded products can be labeled with the USDA shield for distribution all over the world.

The USDA licensed Poultry graders of Utah graded 92,649,753 lbs. of turkey and turkey products in the year 2005. This is an increase over last years 69,370,505 lbs.

School Lunch

The USDA assists the poultry industry in limiting large fluctuations in the poultry products market. The USDA stabilizes

the market for all the consumers by providing USDA poultry products to the national school lunch programs. The School Lunch Inspection Program is the inspection of the condition of these products for wholesomeness. The process involves breaking the official seals on the semi-trailers, selecting samples of frozen product, and drilling the product in order to obtain the temperature. An organoleptic inspection is done and a USDA certificate is prepared. This program is reimbursed by the USDA for the work done in regards to the School Lunch program. Utah egg and poultry graders inspect these commodities which are shipped into Utah.

Meat Compliance Program

The Meat Compliance Program goal is to control and limit the movement in commerce of adulterated or misbranded meats. An additional goal is to provide accurate information concerning complex meat laws.

As Utah's culture and population becomes more diverse, the need to adapt current laws and rules to accommodate their customs, traditions and differing tastes become critical. After receiving numerous complaints from the public regarding inappropriate slaughtering of animals, the Utah Department of Agriculture and Food's Meat Compliance Program hosted the Islamic community holiday EID AL – ADHA on the 21 of January 2006. Working with a local meat processor we arranged for the sacrificial animals to be purchased by the individual and transported to the meat processing plant where under sanitary conditions they were sacrificed. About 50 families participated in our first trial run. Although the outcome had mixed reviews and did not fulfill all the needs for this special event, it did create a meaningful bond between the Greater Salt Lake Islamic Community and the Department of Agriculture and Food. Building on this mutual understanding we can move forward with meaningful dialogue and work together to welcome diversity and understanding between cultures—with the goal of assuring that the consumed meat is safe and wholesome.

The Utah Meat Compliance Program is unique and is unmatched throughout the nation. With significant added training the current compliance staff, whose main emphasis is on food and dairy inspections, can conduct meat compliance reviews at all levels of commerce. They are already in many of the facilities and with little effort can carry out compliance activities. We call this initiative to minimize costs "Cross-utilization". Also, as part of their training, they are prepared to document violations by obtaining photographs, signed statements and affidavits to adequately show a violation has occurred. The staff are also trained to review restaurants and other institutions that may handle meat; for example, hospitals, nursing homes, schools, universities and prisons. If violations have occurred, the firms are tracked by The Planned Compliance Review Program (PCP), which assigns a compliance officer at regular intervals to follow up on the firms, helping to insure compliance. We are proud of the efforts of our compliance staff.

Responding to the concerns surrounding emerging pathogens, we have developed a policy on the charitable donation of game

meat. Even though game meat may provide a source of protein for those served by volunteer organizations, its' use is now discouraged if it is not wholesome. You can read the policy at our website: <http://www.ag.utah.gov>.

During the calendar year 2005, the Meat Compliance Program conducted 1,745 random reviews of state businesses and 25 planned compliance reviews of previous violators of meat laws. Compliance investigations resulted in 12 letters of warning being issued. Compliance officers monitored the shipment of several truck wrecks making sure the meat was properly handled. Compliance officers collected more than 500 ground beef samples for fat, sulfites, and added water analysis. The results showed a high degree of compliance. This sampling and testing is important to the consumer in fighting the increasing obesity epidemic.

Dairy Compliance

Raw Milk Sales

The Utah Dairy Act prohibits the sale of raw milk in Utah, except in specially permitted and inspected dairies and then only on the premise where the raw milk is produced and bottled.

During the past year, the Utah Department of Agriculture and Food worked closely with industry to establish concepts whereby, the sale of raw milk at other locations might be allowed. That collaboration is on-going.

Statistics

The trend among dairy farms in the year 2005 was the same as in 2004 — a decrease in dairy farm numbers and an increase in dairy herd size as the remaining farms grew larger. At the same time, the total milk cow numbers remained constant at 88,000 head.

| Item | Numbers |
|---|--------------------|
| Total dairy farms in Utah | 323 dairies |
| Total milk cows in Utah | 88,000 cows* |
| Total milk production in Utah | 1.661 billion lbs* |
| Production per cow in Utah | 18,875 lbs/cow* |
| Herd average of dairy farms in Utah | 255 cows* |
| Herd average of the Western United States | 510 cows* |
| Herd average of the rest of the U.S. | 89 cows* |

*Statistical information taken from the April 25, 2006 issue of Hoard's Dairyman©.

The 1.66 billion pounds of milk produced in Utah last year is a 3.1% increase over 2004's milk production. Milk production of 18,875 pounds per cow last year is a significant increase of 591 pounds per cow compared to 2004.

Although the average herd in Utah has 225 cows, 44.2% of Utah's dairies are operations with fewer than 50 head. This represents only 2% of the cows in the state. 7.5% of the dairies in Utah are operations over 500 head, representing 46% of the cows in the state. In other words, nearly half of all of Utah's dairy cows are found on just 7.5% of the dairies.*

Demographics

Along with the number of dairy farms decreasing, and herd sizes increasing, preference for dairy farm location could very well be changing as well. Cache Country, in northern Utah, the traditional hub of dairy farms, is being challenged as the ideal location for dairy farms as new dairies look to central Utah as a favored place to build new facilities.

Dairy Compliance

The dairy program seeks voluntary compliance to the laws which regulate the state's dairy farms and dairy processing plants. These laws are the Utah Dairy Act, Administrative Rules, and the Pasteurized Milk Ordinance (PMO). When education fails and voluntary compliance cannot be achieved, regulatory action is initiated. During the calendar year 2005 there were 1,642 inspections conducted; 104 administrative letters written and 41 Grade 'A' permits suspended.

Appendix N

Appendix N of the PMO under 'Industry Responsibilities' states that: "Industry shall screen all bulk milk pickup tankers, regardless of final use, for Beta lactam drug residues." Small producer handlers, farmstead cheese operations, and raw milk for retail dairies in Utah have been the last groups of processors to achieve compliance with the Drug Sampling Program. Through a grant obtained by the department, money became available to purchase 12 antibiotic tester units, 6 Charm® Rosa Readers™ and 6 Idexx® Snapshot™ Readers. These costly instruments have been placed with the dairy processors to assist them in becoming compliant.

Drug Violations

Of the 1,025 dairy farm inspections conducted in 2005, 14% were dairies where animal drug storage or drug labeling violations were observed, and 2.5% of the dairies inspected had prohibited animal drugs on the dairy premises. Of the 41 Grade 'A' permit suspensions, 21 dairies had their permits suspended for having their milk test positive for antibiotic drug residues, 329,000 pounds of producers' adulterated milk and 370,000 pounds of commingled milk had to be removed from commerce and out of the food chain by Utah Dairy Compliance Officers.

| TYPE | NUMBERS | INSPECTIONS |
|-----------------------|---------|-------------|
| Grade A Dairies | 297 | 1025 |
| Manufacturing Dairies | 22 | 64 |
| Dairy Processors | 55 | 251 |
| Raw to Retail Dairies | 4 | 19 |
| Milk Haulers/Samplers | 200 | 78 |
| Milk Trucks | 147 | No data |
| Equipment Tests | 51 | 205 |
| Total | | 1,642 |

"I get to work with the dairy farmers and then work to assure the quality of the milk all the way to the warehouse for shipment to the retail stores. It amazes me sometimes when I think about all the different types of facilities and processes we are respon-

sible for: the farm, the tanker, the sampler, the receiving bay...many different types of plants and storage conditions...and testing the pasteurizing equipment. Phew!”—Allyson Davis, Dairy Compliance

Bedding, Upholstered Furniture & Quilted Clothing

The purpose of the Bedding, Upholstered Furniture, and Quilted Clothing Program is to protect consumers against fraud and product misrepresentation, to assure that Utahns have hygienically clean products, to provide allergy awareness before purchase of these articles, and to prevent unfair competition among manufacturers. Utah law requires manufacturers, supply dealers, wholesalers, and repairers of these products and their components to obtain an annual license before offering items for sale within the state.

Product labels are required to indicate whether the product is made from new or used filling materials and to disclose fillings by generic name and percentage. This enables consumers to make price/value/performance-based buying decisions. It also encourages fair competition among manufacturers by establishing uniformity in labeling and component disclosure.

Utah’s manufacturing sites are inspected for cleanliness and truthful labeling. Products in retail markets are also inspected to ensure compliance. Annual license fees make the program self-sustaining and allow laboratory-testing of suspect products to determine whether their contents are accurately labeled and free from filth and other contaminants.

As more products are produced outside the United States, regulation and inspection help maintain a level playing field for US manufacturers. Working with other state and federal government agencies, Utah’s product oversight helps prevent contamination of U.S. food and fiber sources by preventing importation of prohibited plant and animal products.

Additional program information and many helpful links are available on our website to assist manufacturers with the licensing process. Application forms and other program materials are available at: <http://ag.utah.gov/regsvcs/bedding.html>

Food Labeling

The State of Utah has adopted the regulations promulgated under the Federal Fair Packaging and Labeling Act as set forth in the Code of Federal Regulations (CFR). The food labeling program helps manufacturers understand and comply with state and federal label requirements. Truthful and complete label information protects consumers and enables them to choose products that meet their particular health and lifestyle needs. Label reviews help prevent fraud, product misrepresentation, and unfair competition. In 2005, the food labeling program completed more than 350 label reviews. (This is a label “review” process, not an “approval” process.)

All packaged food items are required to be labeled with the following information before being offered for sale: 1) an appropriate product name, 2) a net quantity statement, 3) a list of all the ingredients in the food, 4) the name and address of the manufacturer, producer, or distributor, and 5) a nutrition facts statement (unless the food qualifies for an exemption from this portion of the label.

Ingredient information is crucial to consumers with food allergies and/or sensitivities, or other dietary restrictions, and to our State’s battle against obesity. The Food Allergen Labeling and Consumer Protection Act (FALCPA), passed by Congress in 2004, came into effect January 1, 2006. This Law requires that all foods labeled after January 1st have ingredient statements that provide clear information about the presence of peanuts, soybeans, milk, eggs, fish, crustacean shellfish, tree nuts, and wheat. These ingredients are responsible for more than 90% of all reported food allergy reactions in the United States. Food allergies are serious and cause death in many cases.

Correct and complete food labels contribute to a safe and healthful food source for all of us. However, consumers are still ultimately responsible to read and understand the label and make choices based on their personal needs.

The Food Labeling Program plays an important role to Utah businesses by helping them successfully export their products to other states and nations. Offending labels cause products to be denied, confiscated, impounded and destroyed. This is costly to commerce. The subsequent destruction of improper labels and development of legal ones is also costly. This program helps Utah businesses avoid these costs.

For additional information on food labeling consult the Department’s Food Labeling website at: <http://ag.utah.gov/regsvcs/labeling.html>

Weights & Measures

The Weights and Measures Program involves all weights and measures of every kind and any instrument or device used in weighing or measuring application. The purpose of the program is to ensure that equity prevails in the market place and that commodities bought or sold are accurately weighed or measured and properly identified. Unannounced inspections are routinely conducted. Weights and Measures also respond to consumer complaints. These activities are enforced through the Utah Weights and Measures Act and five accompanying administrative rules.

In the year 2005, emphasis was given to consumer protection in the area of gasoline pumps, price verification, scale inspections, liquefied petroleum meters, vehicle tank meters, rack meters, water meters and package inspection.

The Weights & Measures Program operates in the following areas:

General Inspections

Scales are inspected to insure that they are accurate for the services in which they are used, are installed properly, and are positioned so that customers can see the display.

Weights and Measures inspectors pump fuel into a certified test measure to check for the accuracy of the amount of product delivered by the dispenser. Upon completion of inspection, if the dispenser passes and meets all legal requirements, our inspectors place an approval seal (sticker) on the dispenser which informs business and consumers that it is compliant. If the dispenser does not pass the inspection the dispenser is required to be repaired and recalibrated.

Gas stations are required to maintain equipment. Routine inspections verify that the pump is compliant by checking pump calibration, money calibration, hose & nozzle condition, labeling, normal flow test, octane posting and the presence of water in the fuel. We also verify that pump prices match what is advertised on street signs and that store receipts match the gas pump display. During the past year 32,336 gasoline pumps were inspected.

Our inspectors checked 3,975 small capacity scales (0 – 999 lbs.) Every type of item is subject to either a scanning inspection, package checking, or label review. Because of our emphasis on fuel pumps, there were only 4 package check inspections performed in 2005. Package inspections verify the net quantity statement. In 2005, 454 scanner inspections were conducted verifying prices at the checkout stands.

Large Capacity Scales

Large-scale capacities include 1,000 lbs. and up. These devices may include scales used for weighing livestock, coal, gravel, vehicles, etc., within inspections conducted at auction yards, ranches, ports of entry, mine sites, construction sites, gravel pits and railroad yards, etc. A total of 1,581 large capacity scale inspections were conducted in 2005.

Liquified Petroleum Gas Meters

Our weights and measures LPG inspector provides inspections to all Utah Vendors dispensing LPG either through dispensers or delivery trucks. In 2005, there were 312 propane meters inspected throughout the state. These inspections included checking appropriate installation and calibration of propane dispensers and meters.

Large Capacity Petroleum and Water Meters

Inspections are conducted on airport fuel trucks, fuel delivery trucks, cement batch plant water meters and other large meters. There were 353 vehicle tank meters, 177 rack meters and 61 water meters inspections conducted in 2005.

Metrology Laboratory

The Metrology Laboratory is operated and maintained by one person. The state maintains standards of mass, length and volume that are traceable to the National Institute of Standards and Technology. It is an important part of the commerce system in the United States. In the year 2005, 870 artifacts from industry and 183 artifacts from the Utah Weights and Measures Program were tested for a certificate of calibration certificate. 164 wheel load weigh scales were inspected for law enforcement purposes.

Consumers rely on the services of this facility to certify equipment used for weight, length or volumetric measurement in commercial business.

Motor Fuel Laboratory

The Motor Fuel Laboratory received 82 complaints dealing with gasoline and diesel quality. These complaints seem to be in direct correlation with the price of fuel.

As population and industry growth continues, so does the need to provide weights and measures inspection services.

Enforcement

Food Product Control

The Utah Wholesome Food Act has two main laws that the UDAF uses to evaluate the safety and wholesomeness: adulteration & misbranding. A food is adulterated if it contains any poisonous substance, which may render it injurious to health, or if it has been produced or stored under conditions whereby it may become contaminated with filth, or rendered diseased, unwholesome, or injurious to health. Misbranded foods are food products that are improperly labeled or missing key information.

In order to protect the consumer, food that is suspected of being misbranded or adulterated is prevented from moving in commerce. This is achieved through Voluntary Destructions, Hold Orders and Releases. In 2005, fourteen hold orders were issued involving 40,000 pounds of food. Twelve hold order releases were issued. Thirty-three voluntary destructions were issued which resulted in 13,118 pounds of food being voluntarily destroyed because it was suspected of being adulterated.

Warning Notices

When voluntary compliance cannot be achieved, we take additional regulatory action in the form of Warning Notices and Administrative Action. In 2005, UDAF sent out 27 Warning Notices concerning non-compliance with the Utah Wholesome Food Act (WFA) and the Utah Food Protection Rule (FPR).

Citations

Three citations were issued in 2005 to food establishments for operating under unsanitary conditions. One citation was issued to a food establishment for moving product under embargo. Seventeen citations were issued to food establishments for not paying their registration fee. The law requires food establishments to be registered with UDAF before operating. Citations continue to be an effective enforcement tool.

The Utah Department of Agriculture and Food's comprehensive food safety program constantly monitors risk factors that lead to food borne illness. Our motto is "safe food saves lives".